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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,068	01/22/2002	Varda Goldberg	2539/2	3981

7590

07/30/2003

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Discovery Dispatch

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EXAMINER

GONZALEZ, MADELINE

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/051,068

Applicant(s)

GOLDBERG, VARDA

Examiner

Madeline Gonzalez

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 3-6, 8-19 and 24-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 7 and 20-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

In response to applicant's response filed on March 31, 2003, the previous Office Action (Paper No.7) has been withdrawn.

#### ***Election/Restrictions***

1. The restriction and election of species requirement stated in the last Office Action (Paper No. 8) is hereby repeated and thus made FINAL.
2. Applicant's election of Group I and Species F, as shown in Fig. 22a, in Paper No. 8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. Claims 1, 2, 7 and 20-23 are readable on the elected Species F (Fig. 22a). Accordingly, claims 3-6, 8-19 and 24-26 are withdrawn from further consideration as being directed to non-elected species.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2: The claim recites the limitation “each of said at least a first graphic form”. This limitation is confusing. It is unclear if applicant is claiming one or more than one graphic forms.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Caperton, Jr. (U.S. 3,660,903).

Caperton, Jr. discloses a drawing aid, as shown in Fig. 1, inherently including a method for recording a point in space, having the steps of:

- designating each reference point, of a first pair of reference points, by use of at least a first graphic form 31’;
- designating each reference point, of a second pair of reference points, by use of at least a second graphic form 31, such that said first pair of reference points is located between said second pair of reference points and the eye; and
- positioning said graphic forms such that, when seen from a viewing point, each of said reference points of said first pair of reference points appears to be superimposed on said reference points of said second pair of reference points; and
- further comprising returning the eye to the viewing point by changing the position of the eye until said at least first graphic form 31’ designating said reference points of said first pair of reference points is aligned with said at least second graphic form designating said reference points of said second pair of reference points.

***Allowable Subject Matter***

8. Claims 7 and 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. The following is a statement of reasons for the indication of allowable subject matter:

Claim 7 would be allowable because the prior art of record does not show or suggest a method for recording a point in space wherein pairs of reference points are incorporated into complimentary portion of a figure, in combination with the remaining limitations in the claim.

Claim 20 would be allowable because the prior art of record does not show or suggest a method for recording a point in space including the step of placing a first graphic form on a first surface of a frame, said first surface extending below and perpendicular to a front edge of a second surface of said frame, said frame having a third surface extending above and perpendicular to said second surface, said frame being supported to allow vertical and horizontal rotation, in combination with the remaining limitations in the claim.

Claims 21-23 would be allowable due to their dependency on claim 20.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Langworthy, Richter, Ormiston, McKewen and Pipes, Jr. disclose drawing aid devices.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeline Gonzalez whose telephone number is (703) 308-7004. The examiner can normally be reached on Monday-Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

MG  
July 16, 2003



Diego F.F. Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800